

Before the
Administrative Hearing Commission
State of Missouri



DIRECTOR OF DEPARTMENT
OF PUBLIC SAFETY,

Petitioner,

vs.

STEFFANIE M. KEARBHEY,

Respondent.

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No. 12-2049 PO

DECISION

We find cause exists to discipline Steffanie Kearbey's peace officer license because she committed criminal offenses.

Procedure

On November 20, 2012, the Director of the Department of Public Safety ("the Director") filed a complaint seeking to discipline Ms. Kearbey's peace officer license. Our notice of complaint and notice of hearing and a copy of the complaint were served on Ms. Kearbey on February 11, 2013, pursuant to the process established in § 621.100.1, RSMo.¹ Specifically, we authorized the Director to serve the material upon Ms. Kearbey in person, or by leaving a copy at her dwelling house or usual place of abode or last address given by her to the agency, with a

¹ All references to "RSMo." are to the Revised Statutes of Missouri (Supp. 2012).

person over the age of 15 present or residing there. At the time, Ms. Kearbey was incarcerated in a federal correctional institution in Florida. The Director delivered the material to the institution by certified mail and filed verification that the material was served on Ms. Kearbey. She did not answer or otherwise respond to the complaint.

The Director filed a motion for summary decision on April 9, 2013. He certified to us that the motion was mailed to Ms. Kearbey at her address of record (in Florida) and later notified us that the copy had not been returned to him as undeliverable. On April 12, 2013, we mailed a letter to Ms. Kearbey at her address of record (in Florida), to advise her of her opportunity to file a response to the motion. But our notice was returned to us as undeliverable.

On May 9, 2013, and at our request, the Director confirmed that Ms. Kearbey was being housed in the Carter County, Missouri, jail and provided us with that new address. On May 10, 2013, we sent Ms. Kearbey a letter at that new address, notifying her that she should file any response to the Director's motion for summary decision by May 24, 2013. We also provided her with a courtesy copy of the motion. The material was not returned to us, and Ms. Kearbey filed nothing in response to the motion.

By failing to answer or otherwise respond to the complaint, Ms. Kearbey has admitted the allegations contained therein. 1 CSR 15-3.380(7)(C)^{1,2}

By failing to respond to the motion for summary decision, Ms. Kearbey has failed to raise a genuine issue as to the facts the Director established in his motion. 1 CSR 15-3.446(6)(B).

Accordingly, the findings of fact are based on the allegations contained in the complaint and the admissible documents submitted in connection with the Director's motion for summary

² All references to "CSR" are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

decision: a custodian of records affidavit, and authenticated documents from a criminal case against Ms. Kearbey, including an indictment and judgment.

Findings of Fact

1. Steffanie Kearbey is licensed as a peace officer by the Missouri Department of Public Safety. Her license is current and active and was so at all times relevant to this case.

2. An indictment was filed against Ms. Kearbey on August 18, 2011 in the United States District Court, Eastern District of Missouri. She was charged with engaging in certain criminal activities between December 2009 and April 2011, specifically: three counts of possession of stolen firearms, in violation of 18 U.S.C. §§ 2 and 922(j); the sale of stolen firearms, in violation of 18 U.S.C. § 922(j); and unlawful use of a controlled substance while in possession of firearms, in violation of 18 U.S.C. §922(g)(3).

3. Ms. Kearbey committed certain of the charged crimes. She pled guilty on April 3, 2012 to two counts of possession of stolen firearms in violation of 18 U.S.C. §§ 2 and 922(j). On July 9, 2012, judgment was entered against her and she was sentenced.

Conclusions of Law

We have jurisdiction of this matter pursuant to § 590.080.2, RSMo.

The Director is responsible for issuing and disciplining the licenses of Missouri peace officers. § 590.020, .030, and .080, RSMo. When the Director files a complaint with this Commission asking us to determine there is cause for discipline, the Director bears the burden of proving by a preponderance of the evidence that the licensee committed an act for which the law gives the Director the authority to discipline the license. *See Kerwin v. Mo. Dental Bd.*, 375 S.W.3d 219, 229-230 (Mo. App. W.D. 2012) (dental licensing board demonstrated “cause” to discipline by showing preponderance of evidence). A preponderance of the evidence is evidence

showing, as a whole, that “the fact to be proved [is] more probable than not.” *Id.* at 230 (quoting *State Bd. of Nursing v. Berry*, 32 S.W.3d 638, 642 (Mo. App. W.D. 2000)).

Section 590.080.1(2) provides that the Director shall have cause to discipline a licensee who “[h]as committed any criminal offense, whether or not a criminal charge has been filed[.]”

Here, the undisputed facts show that Ms. Kearbey was charged with and pled guilty to two counts of the federal crime of possession of stolen firearms. She committed criminal offenses. Her conduct falls squarely under § 590.080.1(2). Therefore, the Director has cause to discipline her license.

Summary

The Director’s motion for summary decision is granted.

The hearing presently scheduled for July 9, 2013 is canceled.

SO ORDERED on June 3, 2013.

\s\ Alana M. Barragán-Scott
ALANA M. BARRAGÁN-SCOTT
Commissioner